92-1542

No. _____

Supreme Court, U.S.
FILED
MAR 22 1993
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

LORENZO W. TIJERINA,
Petitioner,

v.

YVONNE Q. STOWBRIDGE,
Respondent.

APPENDICES TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

VOLUME II
APPENDIX I

Lorenzo W. Tijerina,
Pro Se
800 Taylor Street,
Suite 200
Arlington, VA 22203
(703) 276-0112

Dated: March 22, 1993

Appendix I

V I R G I N I A

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

YVONNE Q. STOWBRIDGE,	)	
Complainant,	)	
-vs-	)	CHAN. NO. 110882
ROBERT G. STOWBRIDGE,	)	
Defendant.	)	

Circuit Courtroom 4G

Fairfax County Courthouse

Fairfax, Virginia

Friday, July 20, 1990

The above-entitled matter came on to be heard before the HONORABLE QUINLAN H. HANCOCK, Judge, in and for the Circuit of Fairfax County, in the Courthouse, Fairfax, Virginia, beginning at 11:20 o'clock a.m.

APPEARANCES:

On Behalf of the Complainant:

WILLIAM D. PATKUS, ESQUIRE

On Behalf of the Defendant:

DAVID K. COOK, ESQUIRE

C O N T E N T S

MOTION	PAGE
Bill of Complaint for Divorce	
Argument: Mr. Cook	3
Argument: Mr. Patkus	6
Rebuttal : Mr. Cook	12
Surrebuttal: Mr. Patkus	17
Court's Ruling	20

P R O C E E D I N G S

(The Court Reporter was sworn.)

THE COURT: Stowbridge versus Stowbridge.

Mr. COOK: Your Honor, this matter comes before the Court again for entry of a decree of divorce incorporating an award of custody of two minor children born of the marriage to Mr. Stowbridge. You may recall, Your Honor, I was before the Court with Mr. Stowbridge on June 8th at which time you had before you a motion to transfer custody of the two minor children to Mr. Stowbridge based upon Mrs. Stowbridge's total contempt of the previous order entered by Your Honor in May or June of

last year.

THE COURT: This the lady who disappeared?

MR. COOK: Yes, sir.

And I think you have also had some contact from a judge in Puerto Rico requesting further information.

Following a very length custody hearing, pendente lite custody hearing requested by Mrs. Stowbridge, Your Honor ordered that Mr. Stowbridge would have custody of the eldest child, Andrea, with no visitation but by telephone on Mrs. Stowbridge's behalf.

That Mrs. Stowbridge would have custody of the younger daughter, Carla, with Mr. Stowbridge having rights of visitation on alternating weekends, alternating holidays and 30 days in the summer. You further ordered that the parties and the children submit to evaluation by Dr. Samanow. Very shortly thereafter, Your Honor, Mrs. Stowbridge fled the scene. And until Mr. Stowbridge was served with copies of a divorce complaint and a so-called immediate hearing or urgent hearing request from the court in Puerto Rico which he did not receive until within the last ten days he had no idea

where
13 Mrs. Stowbridge had fled with the younger daughter.
14 On June 8th we came before you then with a
15 request that the custody of Carla also be transferred to
16 Mr. Stowbridge and an endorsed decree of divorce endorsed
17 by Mrs. Stowbridge's counsel, Mr. Kavrokov, which only
18 made reference to the granting of the divorce.
19 You also had before you an endorsed order
20 allowing Mr. Kavrokov to withdraw as Mrs. Stowbridge's
21 counsel based upon Mr. Kavrokov's representation that he
22 had no communication from Mrs. Stowbridge other than to
23 tell him don't do anything more. But

that he in fact did

not know where she was located
After listening to Mr. Stowbridge on June 8th
you indicated to me that you would order custody of both
children -- I'm sorry, Mr. Stowbridge already has custody
of Andrea. That you would order custody of Carla also
transferred to Mr. Stowbridge, suggest that I incorporate
that in the divorce decree order. That you would not
enter Mr. Kavrokov's order withdrawing as counsel because
he had not attempted to notify Mrs. Stowbridge of his
intent to withdraw.
Asked that I so inform Mr. Kavrokov, sent
him the revised decree and then if for

whatever reason it could not be endorsed by Mr. Kavrokov, to come back and see you which is why we are here today. I have the decree of divorce, the original copy of which has been previously filed.

(Document handed to the Court)

MR. COOK: Which severs the bonds of matrimony between Mr. and Mrs. Stowbridge. Grants Mr. Stowbridge custody of Andrea with no visitation with Mrs. Stowbridge except by telephone which is merely a recital of your previous order. And granting him custody of Carla and requiring Mrs. Stowbridge to immediately return Carla to

the jurisdiction of this Court.

I have also here, Your Honor, a letter form Mr. Kavrokov dated June 16th which unfortunately wasn't post marked until the 19th, acknowledged receipt of the proposed decree but indicating once again that he didn't feel he could sign it because he had been instructed by his client not to do anything.

What would have been a two minute motion this morning is now a ten minute motion because I received a call from Mr. Patkus on Wednesday informing me that he has now entered his appearance on behalf of Mrs. Stowbridge.

And I believe it is his intent to ask you not to do anything at this point.

After he speaks I will undoubtedly have something to say in rebuttal.

MR. PATKUS: Good morning, Your Honor. My name is William Patkus.

Two days ago, on the 18th of this month I entered an appearance on behalf of Mrs. Stowbridge in this matter.

I have an order endorsed by Mr. Kavrokov for substitution of counsel which I would like to present to the Court, if I may.

THE COURT: Has your client endorsed it?

MR. PATKUS: My client has not endorsed it, no, Your Honor, Mr. Kavrokov has. I spoke with Mr. Kavrokov yesterday and he agreed to the substitution.

Your Honor, my client has received no notice of this hearing today either constructively or actually.

Mr. Kavrokov was served with notice of this hearing, however, at the time that Mr. Kavrokov was served with the notice of this hearing Mr. kavrokov's oral motion to withdraw as counsel had already been granted by Judge Brown.

Mr. Kavrokov has received nothing from the Court according to his representation to me yesterday to advise him that his motion to withdraw before Judge Brown has not been entered. It was endorsed by both counsel and following Judge Brown's oral granting of his motion and the presentation of the endorsed order to Judge Brown, Mr. kavrokov left the Court and was not at the June 8th hearing before this Court, before Your Honor. Mr. Kavrokov received notice of today's hearing for the entry of decree of divorce, he did nothing with that because he doesn't know where Mrs. Stowbridge is

23 located.

8

The Court was aware that he did not know where Mrs. Stowbridge was located. He was under the impression that his oral motion had been granted. he had been advised by Mr. Cook, he stated, that Your Honor had said that he wanted to stay in the case, wouldn't release him from the case until further proceedings, however, he had received nothing form the Court. Mrs. Stowbridge did not become aware that this hearing was taking place today until I contacted her and advised her on the 18th when I came to court and filed my appearance and reviewed the file.

I then subsequently, the night of the 18th of July, I contacted her and advised her of these proceedings.

Now, Your Honor, I understand that Mrs. Stowbridge moved to Puerto Rico very shortly after the original custody hearing.

It is not true, however, that she has not been in contact with either her husband or that he was unaware of her location.

Mr. Stowbridge has been contact with his daughter, Carla, he has been as late as April 3rd he was in telephone contact with Mrs. Stowbridge.

When this matter was filed, the notice of this hearing before this Court was filed, Mr. Cook and Mr. Stowbridge were well aware that Mr. Kavrokov thought that he was no longer counsel of record. They were well aware that he did not know where Mrs. Stowbridge was located.

However, both Mr. Cook and Mr. Stowbridge were aware of Mrs. Stowbridge's location, her address and the name of her counsel in Puerto Rico, Mr. Miratza. Because on July 6th of this month Mr. Stowbridge was personally served a copy of the Puerto Rican

complaint.

Now, Your Honor, I have only been in this matter, my first contact with Mrs. Stowbridge was the night of the 16th of July. I have only been in this matter for four days, less that four days Mrs. Stowbridge does not have notice of this -- did not have any sufficient notice at least of this hearing. I as new counsel have not had time to familiarize myself with the case much less prepare for this hearing. I am requesting at this time, Your Honor, that this matter be continued.

THE COURT: For what purpose?

MR. PATKUS: So that I can properly confront

the case and oppose the entry of a decree of divorce in this matter and certainly oppose the awarding of custody of the minor child, Carla, to Mr. Stowbridge.

THE COURT: Well, even if this decree was entered awarding him custody, if she saw fit to do so she would certainly have the right to petition the Court for a change of custody; would she not?

MR. PATKUS: That is correct, Your Honor. However, I believe that before this Court should award custody the Court must take into consideration the best interests of the child. And I don't believe that there's enough evidence before this

Court to make a determination as to what the best interest of at least the child, Carla, are. Mrs. Stowbridge has obtained a psychiatric evaluation of Carla. It's my understanding that the doctor who performed that evaluation is forwarding a copy of that evaluation to this Court. I don't know if the Court has received it or not. I don't know exactly when it was sent. As I say, I'm very new in this matter Your Honor, I don't believe that it would be to anyone's detriment and it would be in everyone's

23 interests certainly to fully explore the matter of custody

before the Court makes a decision which must of course be based upon the best interest of the child. And I believe, Your Honor, my client does not have sufficient notice, did not receive sufficient notice of this hearing, and is entitled to a continuance.

THE COURT: The notice indicates that notice of the proceeding here today was sent to her counsel of record who for that matter, Mr. Patkus, is still counsel of record for her, that is Mr. Kavrokov.

MR. PATKUS: Yes, Your Honor, however, the Court was aware as was Mr. Cook at the

time that the
notice of this matter was sent that Mr. Kavrokov had not
any knowledge of the location of his client.
I would point out one thing, Your Honor. My client on the first of June contacted another counsel
in Virginia and was under the impression as of a least
the fourth of June that that attorney had entered an
appearance in this matter and was vigorously pursuing this
matter on her behalf before this Court and at the hearing
before the Commissioner in Chancery. She thought that that attorney was -- she had
retained him, he has had conversations and correspondence

23 with both herself and Mr. Miratza, her

Puerto Rican

attorney, and they were under the impression that he was confronting this matter, had entered his appearance in this matter and was vigorously pursuing this matter. They recently, by the way that's why they contacted me, they very recently learned that that person, that attorney, not only had not entered an appearance in this matter but that he also is not a member of the Virginia Bar. As soon as Mrs. Stowbridge learned of that she contacted me and asked me to enter an appearance and pursue this matter on her behalf.

THE COURT: Thank you, Mr. Patkus.

MR. COOK: May I respond, Your Honor?

THE COURT: Yes, sir.

MR. COOK: Thank you.

I appreciate the difficulty Mr. Patkus finds himself in coming into this case so late. I do not appreciate, however, representations regarding what I knew or didn't know which are totally erroneous.

The reference to Judge Brown is completely misleading, Your Honor. This case was noticed for June 8th, a praecipe was filed with the Clerk's office asking that it be placed on your docket as has been requested of

counsel by the Clerk's office.
Notwithstanding the filing of that praecipe
that it be heard by you because it needed to be heard by
you, the case was placed on Judge Brown's docket. I met
with Mr. Kavrokov in Judge Brown's courtroom, I endorsed
his order because frankly I've been there, I know what
it's like to have a client who no longer communicates with
you
I endorsed his order, he endorsed my decree of
divorce and in front of Judge Brown when he called the
case I indicated that it had to be heard by you.

Judge Brown heard absolutely nothing with regard to the motion to withdraw, made no oral rulings regarding Mr. Kavrokov's withdrawal. I brought the file down here, Mr. Kavrokov decided that he didn't want to waste any more time on this case, which I can also understand because I imagine he hasn't been paid, and he left. Your Honor told me that you would not enter his order and requested that I inform Mr. Kavrokov which I did by telephone that afternoon and I confirmed it by letter to him on the 13th, a copy of which I have as well. To say that I know that Mr. Kavrokov was no

longer of record because of something Judge Brown said is totally erroneous. To say that Mr. Stowbridge and I knew where Mrs. Stowbridge was is totally erroneous. Mr. Stowbridge has had no communication from his wife other than by telephone calls initiated from her and correspondence which has been routed through a post office box in Fairfax. Until he received the pleadings from Puerto Rico which is the one thing that counsel has said is accurate, were received on July 6th, he had no idea where she was. And even in the pleadings it's not stated where

she's residing other than to give what I imagine is a province, Mayaguez, in Puerto Rico. And I have a copy of those, Your Honor, you may have received them already from the Court. If I could bring this forward.

(Document handed to the Court)

Yes, he has had communication from his spouse, telephone calls initiated from her, he has had communications with Carla, she has allowed him to speak with her when she calls.

But to say that he knew or we knew where she was located is totally unfounded because we didn't.

23 Mr. Stowbridge has not seen Carla since April

of 1989. Mrs. Stowbridge is in total contempt of the order which you entered in this case previously by denying him his visitation and by refusing to go forward with the evaluations as ordered by this Court, by Dr. Samanow. She has fled from the jurisdiction of this Court. She has prevented the visitation, the carrying out of this order. And now says to this Court, I ask you to help me. Your Honor, she asked you to help her in May of 1989 when there was an emergency custody hearing. And after listening to all the evidence you found no

indication of any abusive contact on the part of Mr. Stowbridge, if you had you wouldn't have ordered 30 days consecutive visitation with Carla during the summer. You found that there was a definite problem between Mrs. Stowbridge and the older daughter, Andrea. Which is why you ordered that there be no visitation between the two of them except by telephone pending further evaluation and a further hearing in this Court, which she has prevented. She has now filed pleadings in Puerto Rico that are again half truths and out and out lies. She

23 states in the document entitled, "Urgent Motion," she

informs Court in Puerto Rico in referencing the case filed in this country, she says, I'm quoting, "In that case," in paragraph two of her urgent motion, "In that case the Court of Virginia issued an order on May 25, 1989 awarding the custody of said minor daughter to the Plaintiff, "referring to Carla, a half truth. You did file a pendente lite, you indicated that there would be rights of visitation and that you wanted further evaluation. She says in paragraph three, "The proceedings in the aforementioned action did not

continue in the
normal course." They certainly didn't. She fled the
scene. She is in contempt of this Court. Your Honor, Mr. Stowbridge has done everything
he possibly can. You have the report from Dr. Samanow.
And now she's saying, I'm in Puerto Rico, I want him to
come to Puerto Rico to have to exercise his visitation. I
want him to come to Puerto Rico to defend anything
further. I don't think it's just, I don't think it's
proper, I don't think it's equitable and I don't think she
deserves any further consideration from this Court given

her actions.

THE COURT: All right. Mr. Patkus, anything

else you want to say?

MR. PATKUS: Yes, Your Honor.

I'm not before this Court, Your Honor, to ask that Mr. Stowbridge go the Puerto Rico or to in any way to try to proceed on the action in Puerto Rico. I'm before this Court to represent my client before this Court and in proceedings only before this Court as per the instructions of my client.

My client has asked me to seek a continuance because she did not receive adequate notice. I'm not here to defend whatever pleadings she set forth in Puerto Rico.

I don't know why my client is in Puerto

Rico. I don't know if there's been a hearing on that matter. I only know that my client is concerned about her children, she wants to protect her rights as per her children. She is certainly hopeful, as am I, that this Court will not -- because as Mr. Cook states she is in contempt of this Court and certainly there is no question but that she is in at least technical contempt of an order of this Court, for whatever reason. We are merely requesting that this matter be continued for a short period of time so that we might confront the issues. Not to punish Mrs.

Stowbridge for

being in contempt of the Court but to settle this matter justly and in the best interest of these children.

THE COURT: There are no issues left in this case, Mr. Patkus. This case has been heard by the Commissioner and it's ready for the entry of a final decree.

If you care to endorse this decree notwithstanding the fact that Mr. Kavrokov is still technically counsel of record, I assume he's not here, you are welcome to do so, noting such exceptions as you like.

MR. PATKUS: Your Honor, I have not seen the

decree in this matter but I understand that it awards permanent custody of the minor child, Carla, to the father.

THE COURT: Would you give this back to Mr. Cook, please.

(Document handed to counsel.)

MR. COOK: Your Honor, maybe a copy of it was filed with the Court when I filed the motion, if he reviewed the file --

MR. PATKUS: That is correct, Your Honor, I reviewed the file but it was after 5:00 o'clock and there was no one present to obtain a copy of it.

THE COURT: Well, as I indicated you are certainly welcome to look at the decree and endorse it if you wish to do so.

MR. PATKUS: Very well. I do not wish to do so, Your Honor. I would also further point out to the Court that I believe that my client did not receive either actual nor constructive notice of this --

THE COURT: I already told you the final --

MR. PATKUS: -- note my exception and upon instructions of my client I shall --

THE COURT: We've already covered that, Mr. Patkus, as I indicated. The notice that is in the file indicates that

Mr. Cook sent notice of this hearing to her counsel of record, Mr. Kavrokov.

MR. PATKUS: Knowing full well, Your Honor, that the counsel of record was not in contact.

THE COURT: Well, as I say, that issue is at an end. We've already covered that.

MR. PATKUS: Very well, Your Honor.

THE COURT: If you do not care to endorse the decree if you will pass it back up, please.

(Document handed to the Court.)

MR. PATKUS: May I also pass up an order of substitution of counsel which is endorsed by Mr. Kavrokov?

THE COURT: I'm not going to enter that unless your client endorses it also. When you speak of notice I assume that you had some contact with her but I want her, if she wants to change attorneys it's going to be necessary for her to endorse that order before I enter it.

MR. PATKUS: Very well, thank you, Your Honor.

MR. COOK: Thank you, Your Honor.

THE COURT: The decree has been entered.

MR. COOK: Thank you, Your Honor.

(Whereupon, at approximately 11:43

o'clock

13 a.m., the hearing in the above-entitled matter was

14 concluded.)

CERTIFICATE OF REPORTER

I, Deborah G. Stoll, the Certified Verbatim Reporter who was duly sworn to well and truly report the foregoing proceedings, do hereby certify that they are true and correct to the best of my knowledge and ability; and that I have no interest in said proceedings, financial or otherwise, nor through relationship with any of the parties in interest or their counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of July, 1990.

/S/

_____

Deborah G. Stoll

Court Reporter